

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: O'Donnell et al. Group No.: 3754
Serial No.: 10/800,796 Examiner: Brinson, Patrick F.
Filed: March 15, 2004
For: ROPE AND WEBBING PROTECTOR

**Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450**

Sir:

REPLY BRIEF

The Examiner has rejected the independent claims over the Knight reference (U.S. Pat. No. 1,435,311) under 35 U.S.C. §103. The Knight reference, however, is not enabling as shown by the Grossman Declaration (Attachment 2 to the Appeal Brief), and the Examiner has not challenged this showing.

Instead, the Examiner points to different subject matter that the Applicants could have claimed. This attempted diversion of the Board's attention to the method of making the Applicants' invention must be ignored as it does not alter the fact that the Knight reference is not enabling as a teaching of the subject matter of the Applicants' claims. This is established by the uncontroverted evidence of record in this case. On this ground alone, therefore, the rejection of the claims over the Knight reference must be withdrawn.

The Examiner also seeks to divert the Board's attention from Applicants' evidence of commercial success by citing two other references. It is not at all clear, however, how two references dated 1932 and 1954 somehow detract from the

commercial success today established by the Applicants. Neither of these references disturbs the fact that Applicants' invention has been met with significant commercial success (See Attachments 1 and 3 to the Appeal Brief).

The Examiner's statement that the Applicants have not addressed failures of the prior art and long felt need ignores paragraphs 6, 7 and 8 in Attachment 1, as well as the background section of the present application.

Lastly, the Examiner's general assertion that the O'Donnell declarations (Attachments 1 and 3) fail to allege that the commercial success is derived directly from the invention as claimed, ignores the detailed statements in paragraphs 4 and 5 in Attachment 3. Specific features from the claims are included in Attachment 3, and are *specifically referenced* as contributing to the commercial success.

For the above reasons therefore, Applicants respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's final rejection of each of Claims 37 - 53.

Respectfully submitted,



William E. Hilton
Registration No. 35,192
Gauthier & Connors LLP
225 Franklin Street, Suite 2300
Boston, Massachusetts 02110
Telephone: (617) 426-9180
Extension: 111